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Human rights situation in Palestine and other occupied Arab territories

Written submission by the Independent Commission for Human Rights of Palestine*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Independent Commission for Human Rights of Palestine**, reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

* National human rights institution with "A" status accreditation from the Global Alliance of National Institutions for the Promotion and Protection of Human Rights.

** Reproduced in the annex as received, in the language of submission only.

Annex

[English only]

Submission by the Independent Commission for Human Rights of Palestine

The Impact of Israeli Settlements and Settlement Expansion on the Status of Human Rights in the Occupied Palestinian Territory

The Independent Commission for Human Rights (ICHR) views with deep concern the Israeli expansionist practices and policies, which impinge on international customary rules, laws and human rights standards. In violation of International Law, these actions are codified by enacting Israeli laws to facilitate further land grab and de facto annexation of the West Bank, including East Jerusalem, to Israel. On 6 February 2017, the Israeli Knesset concluded these laws by approving the so-called Settlement Law, which consolidates Israel's occupation, retroactively legalises thousands of settler housing units built on privately owned Palestinian land in the occupied West Bank, paves the way to seize Area C, and eliminates establishment of an independent, sovereign Palestinian state.

The Israeli Settlement Law was passed just a few weeks following an international consensus to Security Council Resolution 2334. The resolution reaffirms that establishment by Israel of settlements has no legal validity, reiterates the demand that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, and underlines that the Security Council will not recognise any changes to the 4 June 1967 lines, including with regard to Jerusalem.

Israel's response to international legitimacy was marked by defiance and disdain of the international community and by flagrant violation of International Law, which prohibits the confiscation, destruction or grab of private property. International Humanitarian Law views these actions as war crimes. In particular, the Fourth Geneva Convention of 1949 prevents the Occupying Power from deporting or transferring parts of its own civilian population into the territory it occupies. The Convention also prohibits the forcible transfer of Palestinians within the occupied Palestinian territory. According to the Rome Statute of the International Criminal Court, forcible transfer is a crime against humanity. Israel's reaction has provided a further immunity to Israeli settlers, granting them a permission to usurp Palestinian land, loot Palestinian public and private property, expand settlement activity, and create facts on the looted land. In parallel, the Israeli government has provided extensive support and channelled considerable funds in aid of the settlement enterprise.

Recently, settlement activities have expanded throughout the occupied West Bank, including East Jerusalem. The Occupying Power has confiscated 61 percent of the Palestinian land for settlement activity and Annexation Wall which is constructed inside the Palestinian territory. Israel has turned Palestinian cities, towns and villages into isolated enclaves by means of hundreds of military checkpoints which interrupt the territorial contiguity of the West Bank. Israel's expansionist policies and violations continue to encroach on the Palestinian people's right to self-determination in an independent state. By doing so, Israel effectively eliminates the territory as an essential element of the State of Palestine. In addition to restrictions on the right to freedom of movement, settlement expansion has exerted a serious impact on Palestinians. It has disrupted social, territorial and economic ties within the Palestinian society, fragmented the Palestinian territory, and

supported Israel's effort to alter the demographic composition in the occupied Palestinian territory, including East Jerusalem.

Information on settlement activity and its impact on the status of Palestinian human rights

In 2016, the Israeli settler population in the West Bank was estimated at 620,000, with a natural growth rate of 4.1 percent. There were over 423 settlements and settlement outposts in the Palestinian territory occupied since 1967. These included 174 settlements and 106 settlement outputs. Dozens of Israeli military posts and industrial parks are also constructed in the Palestinian territory. Not to mention land classified as nature reserves, a total of 540 square kilometres comprise areas of influence around existing settlements, 1,016 square kilometres are closed military zones, and 1,000 square kilometres are state land.

The Annexation Wall is part and parcel of Israeli settlement infrastructure. It surrounds and runs deep in the West Bank and annexes the majority of Israeli settlements and settlers who reside in these settlements. The Wall facilitates seizure of vast areas of Palestinian land, ensuring future expansion of settlements. When completed, the Wall will be almost 714 kilometres long. A total of 488 kilometres, or 68 percent, of the Wall have been constructed. The entire route of the Annexation Wall will ultimately isolate 569 square kilometres of Palestinian land. Approximately 60 gates are installed along the Wall route, including 11 opened on a daily basis, 39 on a seasonal basis, and 10 on a weekly or seasonal basis.

The Annexation Wall isolates land which provides a primary source of livelihood and sustenance for Palestinian owners, prevents access to educational institutions, healthcare centres and social facilities, and deprives Palestinians from using natural resources. Israeli settlements deny Palestinian citizens the opportunity to use and properly exploit their land. Palestinians are prevented from using around 43 percent of the West Bank land because it is under control of Israeli settlement and the Wall. In addition to this land, the Wall land slated for settlement expansion and their associated infrastructure, including settler bypass roads, checkpoints and military bases. Furthermore, 27 percent of the West Bank land, which the Occupying Power labels as "state land", is earmarked for the benefit of settlements, rather than the Palestinian citizens.

Water sources are also expropriated and exploited for the benefit of Israeli settlements, which consume large quantities of water. At the same time, the Israeli occupying authorities impose severe restrictions, preventing Palestinians from drilling wells. In light of limited water sources, Palestinians are forced to purchase water from the Israeli Water Company (Mekorot). Comprising 18.5 percent of available water quantity, Palestinians had to purchase a total of 63.5 MCM of water for domestic use in 2014.

Settler violence against Palestinian citizens is increasing year by year. In 2016, almost 505 settler attacks on Palestinians were monitored, including 300 against Palestinian citizens, property and land during the olive harvest season.

Main forms of Palestinian human rights violations as a result of Israeli settlements

Israeli settlement expansion poses a threat to the Palestinian right to self-determination. It is a major cause of human rights violations across the Palestinian territory. Settlements fragment territorial contiguity of the West Bank. Settlement activity deprives Palestinian citizens of enjoying fundamental human rights enshrined in international conventions and of services provided by the State of Palestine. It violates Palestinian citizens' right to education, healthcare, work, family life and family reunion. The Occupying Power also

obstructs the State of Palestine's effort to enhance economic, living and security conditions and protect Palestinian citizens from settler violence. Main consequences of settlement activity on Palestinian citizens' rights include the following:

Restricting Palestinian movement and cutting off territorial contiguity between Palestinian cities, towns and villages: While total freedom of movement is allowed for settlers, the Israeli occupying authorities impose tight restrictions on Palestinian movement and travel by means of hundreds of military checkpoints and other physical obstructions. To protect and facilitate movement for Israeli settlers, towards the end of 2016, approximately 472 military checkpoints and other impediments were in place throughout the West Bank to restrict Palestinian movement and travel. Of these, 44 checkpoints were permanently manned by Israeli soldiers. These included 31 checkpoints set up along the Annexation Wall route. Another 52 checkpoints were partly manned. There were also 180 dirt barricades, 72 roadblocks, and 124 gates. Half of the gates was habitually closed. In the H2 Area of the Hebron city, around 110 checkpoints restricted movement of Palestinian inhabitants of the area, which falls under control of the Israeli occupying authorities.

Settlement activity adversely impacts the status of Palestinian human rights. Israeli settlements and their associated infrastructure, including settler bypass roads, Annexation Wall, military checkpoints and other physical obstructions, are the main cause of fragmented territorial contiguity between the West Bank and Gaza Strip as well as between cities, towns and villages within the West Bank. Settlements also isolate East Jerusalem from the rest of the West Bank. Israeli military checkpoints and other physical impediments seclude Palestinian communities from one another, prevent urban expansion, and deny access to agricultural land, natural resources, educational institutions, healthcare centres and social facilities.

The Israeli occupying authorities have also constructed a network of roads and routes to develop settlements. Designated for settlers, bypass roads connect settlements with one another and with Israel proper. The Israeli occupying authorities restrict movement, and sometimes prevent Palestinians from travelling, along these roads.

Land grab: The Israeli occupying authorities expropriate Palestinian land for the purposes of expanding and serving settlements and road networks. In effect, the space allowed for safe and adequate housing is restricted. Israel refuses to allow Palestinians to construct new buildings, enjoy basic services, and develop needed infrastructure. By uprooting trees and crops, Israel deprives Palestinians of their sources of livelihood, forcibly displacing Palestinian families from their land. While Palestinian households rely wholly or partly on agriculture for sustenance, the agriculture sector has been negatively impacted by settlements. Palestinian farmers cannot use their land which lie in close proximity to settlements. Palestinian homes adjacent to settlements are under the threat of demolition. Not only do Israeli settlements adversely jeopardise Palestinian citizens' fundamental rights, but they also lead to expropriating more Palestinian land. The Israeli occupying authorities construct settlements in Area C, which is termed as such under to the Oslo Agreement. Area C is under Israel's full security and administrative control. Heavy restrictions are imposed on Palestinian construction in this area. Area C includes the most resource rich Palestinian land and harbours the majority of agricultural land and water sources. According to a World Bank study, if used by Palestinians and if access is provided to agricultural land, pastureland and water sources, Area C would add as much as 35 percent to the Palestinian GDP. Because this area is out of Palestinian control and use, the study sets the current loss to the Palestinian economy at about US$3.4 billion.

Environmental pollution caused by settlements in the West Bank: The Occupying Power has constructed almost 20 industrial parks within settlements, which it describes as areas of great economic significance to the Israeli economy. Cheap Palestinian labour is exploited and Palestinian market is monopolised by these settlements. Industrial parks have had a devastating impact on all aspects of the Palestinian environment, effectively usurping depleting natural resources and polluting water, air and soil. Over the past 20 years, the

Israeli occupying authorities have also transferred polluting industries to the Palestinian territory to avoid hazardous residues, waste and gases in Israel proper. Let alone poisonous gas emissions and foul smell, Israeli settlers discharge untreated domestic, agricultural and toxic industrial wastewater as well as other solid waste of industrial facilities into settlements into the plains and valleys of Palestinian towns. The result is contaminated groundwater and soil across the West Bank. Additionally, Israeli restrictions prevent the Palestinian National Authority (PNA) from implementing wastewater treatment projects. The Occupying Power requires extremely difficult specifications for construction of wastewater treatment plants in the Palestinian territory.

Combined, these violations have adversely impacted the Palestinian environment and severely contaminated Palestinian groundwater in the West Bank. Environmental pollution has also affected public health and caused the spread of a large number of diseases because of discharging untreated domestic, agricultural and toxic industrial wastewater as well as solid waste of settlement-based industrial facilities into the plains and valleys of Palestinian towns.

Acute water scarcity and intermittent water supply in many Palestinian cities, towns and villages: In the West Bank, main water sources are located in Area C, which is under full Israeli control. As a result, Palestinians are deprived of the right of access, control and fair distribution of these water sources on an equal footing with Israeli settlers. Thousands of Palestinians suffer from blocked water supply to their homes and fields for extended periods. Israeli settlements are in control of 85 percent of Palestinian groundwater. For these settlements, the Occupying Power designates rich water sources. The overall daily average per capita water consumption by Palestinians is far below the minimum standard recommended by the World Health Organisation of 100 litres a day. While Palestinian per capita water consumption is as low as 60 litres a day for domestic use, in urban and rural areas and industrial purposes, Israelis have as much as 280 litres a day for domestic use in urban and rural areas and 330 litres a day for industrial purposes. The Israeli occupying authorities also extract 40 MCM from wells in the West Bank for the benefit of settlements. By contrast, Palestinian citizens and communities, particularly those in the Jordan Valley, suffer from acute water shortages.

Judaising Jerusalem and imposing restrictions on Jerusalemites: Israeli Judiasation policies violate Palestinian fundamental human rights in Jerusalem. Through Judaisation projects, the Israeli occupying authorities implement policies with the aim of altering the landmarks of Jerusalem, endowing a Jewish character on the Holy City, and implementing the Greater Jerusalem project. To preclude Palestinian development and natural expansion, the Israeli occupying authorities continue to tighten the grip on Palestinian citizens in order to reverse the demographic composition in the city. To this avail, Israel seeks to annex major settlements, including Ma'ale Adumim and Giv'at Ze'ev which lie outside the borders of the Jerusalem Municipality. Meantime, Israel attempts to remove Palestinian areas from the Jerusalem municipal borders and get rid of the city's indigenous population. To do so, the Israeli occupying authorities impose exorbitant taxes and fines, Judaise the education system and school curricula, withdraw identity cards, enact new laws, seize property, and demolish homes to displace Palestinian Jerusalemites and replace them with Israeli settlers. The Israeli occupying authorities also impose severe restrictions on construction licences issued to Palestinians and besiege the city with military checkpoints and the Annexation Wall.

Insecurity and instability among Palestinians due to settler violence: Protected by the Israeli occupying forces and aided by clearly discriminatory policies, Israeli settlers continually attack and assault Palestinian citizens. Over the past years, settler violence has increasingly targeted Palestinian citizens. Settlers raid, seize and burn Palestinian land and properties in villages adjacent to settlements. They also assault farmers and shepherds and set fire to mosques, homes and olive groves. Settler violence is part of a broader Israeli policy, which is designed to place pressure on and force Palestinian citizens to leave their land and

homes. Accordingly, Israel grabs more land for construction of settlement outposts. Impunity encourages further settler violence, undermining living conditions and negatively impacting physical and mental health and security among Palestinian citizens. The Israeli occupying forces provide security and protection to these settlers.

Conclusion and recommendations

Apart from violating the International Bill of Human Rights, Israeli settlement activity and Wall construction create a physical obstruction to a full recognition of the Palestinian right of self-determination. These actions prevent the Palestinian people from exercising their political rights, controlling their natural resources, and achieving economic, social and cultural development. Settlement construction is part of a policy, which seeks to create facts on the ground. On the long run, it undermines rights associated with the right of self-determination, effectively depriving the Palestinian people from enjoying these entitlements.

Settlement construction also adversely impacts Palestinian citizens' fundamental rights and PNA's ability to ensure security and decent standards of living for Palestinians. The PNA lacks control over land and is incapable of preventing confiscation and reducing the impact of settlements. Settlement construction sharply reflects on the status of Palestinian human rights because Palestinians are unable to enjoy fundamental rights which need to be provided by the PNA. It disrupts the PNA's effort to safeguard human rights, improve economic and living conditions, and maintain security of Palestinian citizens.

Against this background, the ICHR appeals to the Human Rights Council to place pressure on the Israeli government to put an end to its 50-year-long occupation of the Palestinian territory, deter human rights violations, and stop settlement construction and all settlement activities. The ICHR calls for implementation of the UN Security Council Resolution 2334, which demands an immediate and complete cessation of all settlement activities in the occupied Palestinian territory.

The ICHR calls on the international community to fully abide by respective obligations under International Law, invigorate immediate intervention mechanisms by the United Nations and relevant agencies to place pressure on and oblige Israel to respect international conventions and comply international resolutions. Serious actions need to be taken to hold to account and prosecute the Occupying Power for settlement activities. Expedited action should also be made to develop and publish a black list and impose sanctions on those corporations which make profit from the occupation and settlement activities. These should be criminalised by International Law for their illegal operations in Israeli settlements.

The ICHR demands that the international community place pressure on the Occupying Power to prosecute and bring settlers to justice and to prevent the Israeli occupying forces from providing protection to settlers, covering their attacks on Palestinian citizens and properties, and encouraging them to commit further atrocities. The international community should put an end to Palestinian human rights violations resulting from settlements.

The ICHR calls on the High Contracting Parties to the 1949 Fourth Geneva Convention to comply with their obligations under Article 1 of the Convention (undertake to respect and to ensure respect for the present Convention), Article 146 (undertake to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the Convention), and Article 49 (prohibit the Occupying Power from deporting or transferring parts of its own civilian population into the territory it occupies).